

[USTelecom – CTIA Ex Parte]

December 12, 2007

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Telecommunications Reporting Worksheets (FCC Forms 499-A and 499-Q),
CC Docket No. 96-45**

Dear Ms. Dortch:

Members of the United States Telecom Association (USTelecom) and CTIA – The Wireless Association® are concerned that the procedures used by the Commission and the Universal Service Administrative Company (USAC) to make changes to the FCC Form 499-A Telecommunications Reporting Worksheet and the important instructions that accompany the form do not provide an opportunity for fund contributors, USAC, and the Commission to ensure that the contribution process is effective and efficient.¹ Under current procedures, the Commission publishes a notice in the Federal Register that the revised form and instructions have been submitted for review to the Office of Management and Budget and seeks comment on the submission pursuant to the Paperwork Reduction Act of 1995 (PRA).² USTelecom and CTIA believe that those procedures alone do not provide interested parties with adequate notice and opportunity to meaningfully comment on proposed form and instruction changes. USTelecom and CTIA, therefore, request that the Commission also put any proposed revisions to these documents out for comment using its own notice and comment procedures. USTelecom and CTIA further request that the Commission summarize proposed changes to the Form 499 and the Worksheet Instructions and provide redline versions of both documents. These simple measures would help the Commission and USAC better refine the contribution process and evaluate whether proposed changes would be effective.³

Members of USTelecom and CTIA submit annual and quarterly revenue information to USAC using the Form 499-A and Form 499-Q (collectively the “Form 499”). This information

¹ Telecommunications Reporting Worksheet, FCC Form 499-A (revised 2007), Instructions for Completing the Worksheet for Filing Contributions to Telecommunications Relay Service, Universal Service, Number Administration, and Local Number Portability Support Mechanisms (the “Worksheet Instructions”).

² See, e.g., Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget, 71 FR 56530-02 (Sep. 27, 2006). Parties are directed to the FCC’s PRA web page to review the revised form and instructions.

³ See also Letter from Robert Quinn, AT&T, to Dana Shaffer, Chief, Wireline Competition Bureau, *Request for Review by AT&T Inc. of Decision of the Universal Service Administrator*, CC Docket No. 96-45; *Cingular Wireless LLC Request for Review of Decisions by Universal Service Administrator*, CC Docket Nos. 96-45, 97-21 (October 4, 2007).

is used by USAC to determine the universal service contribution factor and carrier-specific contributions to the fund. Preparation of the Form 499 is increasingly complex. The Form 499-A now spans eight full pages with six blocks of revenue detail and other information. The Worksheet Instructions have also grown significantly in length and detail – at a rate of about two pages per year since 2000. The Worksheet Instructions now contain some 37 pages of single-spaced directions for completing the Form 499.

Even seemingly innocuous changes to the Form 499 and the Worksheet Instructions can result in complicated – and often inefficient – process changes for carriers. For example, the 2007 Worksheet Instructions now request that wholesale carriers that sell services to other carriers obtain annual certifications from reseller customers attesting to their independent contributions to the USF. Worksheet Instructions at 19. While the Worksheet Instructions have addressed such statements from resellers for several years, *annual* certifications had never before been requested. Some wholesale carriers have thousands of reseller customers, and the new annual reseller certification language can entail a completely new process to obtain certifications from every reseller. This takes significant time and resources to implement. For resellers, the change to an annual process involves obtaining and completing certification forms from all of their wholesale providers every year. Wholesalers have their own, different certification processes and forms, and resellers must be prepared to receive, evaluate, return, and maintain certifications from all of their wholesalers.

The Worksheet Instructions do increasingly seek to impose affirmative obligations on carriers, such as these new annual reseller certifications, which are unrelated to the details of completing the Form 499 itself. If the expectation is that carriers will comply with such broad directions in the Worksheet Instructions, then any changes to the Worksheet Instructions must, at minimum, be posted by the Commission using its own notice and comment procedures prior to taking effect.⁴ Carriers should also be given a reasonable amount of time to implement any necessary process changes.

A meaningful opportunity for notice and comment on changes to the Form 499 and the Worksheet Instructions is especially important as the Commission and USAC increase the number of universal service-related audits of carriers. USTelecom and CTIA members have experienced situations where auditors allege non-compliance with the Worksheet Instructions as the basis for negative audit findings. Particularly if the Commission and USAC intend to audit carrier compliance with the Worksheet Instructions, and related audit findings result in USAC demands for additional contributions to the fund, then the Commission should follow its own notice and comment procedures.

Moreover, summarizing, identifying, and providing for notice and comment on changes to the Form 499 and the Worksheet Instructions will further universal service goals. In USTelecom and CTIA's experience, carriers, the Commission, and USAC all recognize the importance of transparent and well-defined contribution procedures. Therefore, USTelecom and

⁴ See 5 U.S.C. § 553(b)(3) (excepting only interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice from notice and comment requirements absent a finding of good cause by the Commission that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest).

CTIA respectfully request that the Commission put any proposed revisions to the Form 499 and the Worksheet Instructions out for comment using its own notice and comment procedures, summarize proposed changes, and provide a redline version of both documents.

Sincerely,

/s/ Jonathan Banks

Jonathan Banks
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United States Telecom Association

/s/ Paul Garnett

Paul Garnett
Assistant Vice President, Regulatory Affairs
CTIA – The Wireless Association®

CC: Chairman Kevin Martin
Commissioner Jonathan Adelstein
Commissioner Michael Copps
Commissioner Robert McDowell
Commissioner Deborah Tate
Dana Shaffer
Amy Bender
Jeremy Marcus
Jennifer McKee